



Brian Schweitzer, Governor

P. O. Box 200901

Helena, MT 59620-0901

(406) 444-2544

Website: [www.deq.mt.gov](http://www.deq.mt.gov)

February 18, 2011

Henry Fassnacht  
The Nature Conservancy Montana  
P.O. Box 8316  
Missoula, MT 59807

Dear Mr. Fassnacht:

The Department of Environmental Quality (Department) has made its decision on the Montana Air Quality Open Burning Permit application to conduct prescribed wildland open burning activities in Montana. The application was given permit number SM-0006. The Department's decision may be appealed to the Board of Environmental Review (Board). A request for hearing must be filed by March 4, 2011. This permit shall become final on March 5, 2011, unless the Board orders a stay on the permit.

Procedures for Appeal: Any person jointly or severally adversely affected by the final action may request a hearing before the Board. Any appeal must be filed before the final date stated above. The request for a hearing shall contain an affidavit setting forth the grounds for the request. Any hearing will be held under the provisions of the Montana Administrative Procedures Act. Submit requests for a hearing in triplicate to: Chairman, Board of Environmental Review, P.O. Box 200901, Helena, Montana 59620.

Conditions: See attached.

For the Department,

Paul Skubinna  
Environmental Engineer  
Air Resources Management Bureau  
(406) 444-6711

PS  
Enclosure

## Air Quality Major Open Burning Permit

Issued To:	The Nature Conservancy of Montana P.O. Box 8316 Missoula, MT 59807 (406) 543-6681	Permit #: SM-0006 Permit Application Received: 01/05/2011 Department Decision on Application: 02/18/2011 Permit Final: 03/08/2011 Expiration Date: 03/08/2012
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An air quality major open burning (MOB) permit is hereby issued to The Nature Conservancy of Montana (TNCM) pursuant to the Administrative Rules of Montana (ARM) 17.8.601, *et seq.* under the following terms and conditions:

### Section I: Permitted Activities

TNCM is permitted to conduct prescribed wildland open burning activities in Montana in which descriptions have been submitted to the Department of Environmental Quality (Department) and Monitoring Unit of the Montana/Idaho State Airshed Group. Planned, scheduled management-ignited burn (burning) descriptions shall be submitted with the annual air quality permit application to the Department. All burns must be conducted in accordance with this MOB permit.

### Section II: Limitations and Conditions

#### A. Emission Limitations and Control Requirements

1. Anyone conducting burning for their own use, as a service to an unrelated entity, or burning conducted by proxy, shall comply with Best Available Control Technology (BACT) during ignition and/or throughout the duration of burning by employing such techniques and methods that may include:
  - a. Scheduling of burning during periods and seasons of good ventilation;
  - b. Applying dispersion forecasts;
  - c. Utilizing predictive modeling results performed by and available from the Department to minimize smoke impacts;
  - d. Limiting the amount of burning to be performed during any one time;
  - e. Using ignition and burning techniques which minimize smoke production;
  - f. Selecting fuel preparation methods that will minimize dirt and moisture content;
  - g. Promoting fuel configurations which create an adequate air to fuel ratio;
  - h. Prioritizing burning as to air quality impact and assigning control techniques accordingly;
  - i. Promoting alternative treatments and uses of materials to be burned; and

- j. Selecting sites that will minimize smoke impacts.
- 2. TNCM may not burn prohibited materials as listed in ARM 17.8.604. Prohibited materials include, but are not limited to, garbage, building demolition waste, styrofoam and other plastics; rubber materials; treated lumber and timbers; and dead animals or dead animal parts.
- 3. TNCM shall only conduct burning for the purposes of hazard reduction, site preparation for regeneration, range improvement, wildlife habitat improvement, control of forest pests and diseases, and any other accepted silvicultural practice.
- 4. TNCM shall notify the fire control authority having jurisdiction in the area of burning/events prior to ignition. An additional fire safety permit may be required from the appropriate fire control authority.
- 5. TNCM shall have appropriate fire control available during the course of burning.
- 6. All burning conducted under this MOB permit shall be done in a manner that no public nuisance is created. Section 27-30-101, Montana Code Annotated (MCA) defines nuisance as anything which is injurious to health, indecent or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property, or which unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, river, bay, stream, canal, or basin or any public park, square, street, or highway.
- 7. During the period of September 1 through November 30 and prior to conducting burning, Permittee shall call the Department toll free (1-800-225-6779) and access burn coordination information via the Internet at [www.smokemu.org](http://www.smokemu.org).
- 8. During the period of December 1 to February 29, Montana members of the Montana/Idaho State Airshed Group may conduct burning if the following conditions are met and approval is granted by the Department:
  - a. All wintertime open burning shall be conducted as specified in the Montana/Idaho State Airshed Group Operating Guide.
  - b. Proposed wintertime open burning requests must be submitted to the Monitoring Unit by November 1st and forwarded to the Department by November 15th. Requests shall be submitted in the Airshed Management System (AMS) database and may be updated as meteorological conditions change.
  - c. TNCM shall be responsible for scheduling its own burns. TNCM shall ignite burns only during periods of good or excellent ventilation. Ventilation forecasts may be obtained from the Department. TNCM shall provide prior-day notification and secure burn-day verification from the Department or its designee.
  - d. The Department reviews wintertime open burning requests (December 1 through February 29) on a case-by-case basis. The Department may prohibit wintertime open burning at anytime.

- e. This permit may be subject to superseding local authority in Flathead, Missoula, Lincoln, Yellowstone, and Cascade counties. Local jurisdictions may impose different or more stringent requirements. TNCM shall confer with county authorities when performing burning in their respective jurisdictions.
- 9. Anyone conducting burning shall comply with requirements of ARM Title 17, Chapter 8, Subchapter 6. Failure to follow the procedures and requirements of ARM 17.8, Subchapter 6, shall be grounds for revocation of this MOB permit and possible enforcement action under the Clean Air Act of Montana.
- 10. No one shall conduct burning within the city limits of any city in the state of Montana.
- 11. For each proposed burn, TNCM shall provide the Department with the proposed burn date, burn identification, location, size in acres, elevation, method of burning, and average fuel loading or total tons of fuel to be disposed.
- 12. TNCM shall categorize smoke emissions from each proposed burn and as either natural or anthropogenic and enter the categorization in the AMS database.
- 13. By February 15th, TNCM shall submit to the Department an annual report containing completed burning information from January 1st to December 31st of the preceding year.
- 14. Issuance of this permit does not relieve TNCM of civil or criminal liability for any claims or actions for injury or damage arising as a result of TNCM performing open burning.

B. County Restrictions

This permit may be subject to superseding local authority in Flathead, Missoula, Lincoln, Yellowstone, and Cascade counties. Local jurisdictions may impose different or more stringent requirements. TNCM shall confer with county authorities when performing burning in their respective jurisdictions.

C. General Conditions

1. Inspection

The TNCM shall provide the Department access to any burning site at reasonable times for the purpose of making inspections or surveys, collecting samples, obtaining data, and otherwise conducting all necessary functions related to this MOB permit.

2. Waiver

The MOB permit and all the terms, conditions, and matters stated herein shall be deemed accepted if the recipient fails to appeal as set forth below.

3. Compliance with Statutes and Regulations

The citation of requirements, limitations, and conditions in this MOB permit does not relieve the applicant from the obligation to comply with all applicable statutes and administrative regulations, including amendments thereto, nor waive the right of the Department to require compliance with all applicable statutes and administrative regulations, including amendments thereto.

4. Enforcement

Violations of limitations, conditions, and requirements contained herein or the violation of any applicable statutes and administrative regulations may constitute grounds for permit revocation, penalties or other enforcement as specified in Section 75-2-401 *et seq.*, MCA.

5. Appeals

When the Department approves or denies the application for a MOB permit under this rule, a person who is jointly or severally adversely affected by the Department's decision may request a hearing before the Board of Environmental Review (Board). The request for a hearing must be filed within 15 days after the Department renders its decision. An affidavit setting forth the grounds for the request must be filed within 30 days after the Department renders its decision. The contested case provisions of the Montana Administrative Procedure Act, Title 2, Chapter 4, Part 6, MCA, apply to a hearing before the Board under this rule. The Department's decision on the application is not final unless 15 days have elapsed from the date of the decision. The filing of a request for a hearing does not stay the effective date of the Department's decision. However, the Board may order a stay upon receipt of a petition and a finding, after notice and opportunity for hearing, that: (a) the person requesting the stay is entitled to the relief demanded in the request for a hearing; or (b) continuation of the permit during the appeal would produce great or irreparable injury to the person requesting the stay.

Upon granting a stay, the Board may require a written undertaking to be given by the party requesting the stay for the payment of costs and damages incurred by the permit applicant and its employees if the board determines that the permit was properly issued. When requiring an undertaking, the Board shall use the same procedures and limitations as are provided in 27-19-306(2) through (4) for undertakings on injunctions.

6. Permit Inspection

Pursuant to ARM 17.8.755, Inspection of Permit, a copy of this MOB permit shall be made available for inspection by Department personnel at the permitted facility during the burn.

7. Permit Fees

Pursuant to Section 75-2-220, MCA, an MOB permit application is deemed incomplete until the TNCM submits the proper MOB permit application fee as required by that section and rules adopted by the Board of Environmental Review.